

SITE DEVELOPMENT PERMIT

FILE NO.	H14-009
LOCATION OF PROPERTY	Northeast corner of North First Street and St. James Street
ZONING DISTRICT	DC Downtown Primary Commercial
GENERAL PLAN DESIGNATION	Downtown
PROPOSED USE	Site Development to allow the construction of three buildings ranging from 38 feet to 201 feet with up to 220 residential units, up to approximately 14,555 feet of commercial use, and an associated underground parking garage.
ENVIRONMENTAL STATUS	Addendum to the Park View Towers Supplemental EIR, Resolution No. 08-015 and Downtown Strategy 2000 Addendum (to be adopted)
APPLICANT/ADDRESS	Yoke Mah 777 North First Street, Fifth Floor San Jose, CA. 95112
OWNER/ADDRESS	Green Valley Corporation 777 North First Street, Fifth Floor San Jose, CA. 95112

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Site Description and Surrounding Uses.** The project site is located at the northeast corner of North First Street and St. James Street. The site is bounded by residential and commercial uses to the north, office uses to the west, private recreation use to the east, and park space to the south. The site is within the St. James Historic District and an existing Contributing Structure to a City Landmark District, Structure of Merit, and National Register Structure, the First Church of Christ the Scientist Church, is located on the site.
2. **Project Description.** This is a Site Development Permit to allow the construction of up to 220 residential units, and approximately 14,555 square feet of commercial space and an associated underground parking garage on an approximately 0.47 gross acre site.
3. **Historic Preservation.** As this project proposes construction within an existing City Landmark District, an associated Historic Preservation Permit (HP14-002) is associated with this project and is currently on file with the Planning, Building, and Code Enforcement Department. Both of these files were considered by the Historic Landmarks Commission at a public hearing on April 1, 2015.

4. **Associated Historic Preservation Permit.** The associated Historic Preservation Permit, HP14-002, proposes the permanent relocation of the First Church of Christ Scientist to site approximately 15 feet to the west of the current building footprint. This application also proposes the demolition of the basement of the church and the rehabilitation of the church.
5. **General Plan Conformance.** The Project is consistent with the General Plan in that:
 - a. The Project is consistent with the site's Envision San Jose 2040 General Plan Land Use / Transportation Diagram designation of Downtown which allows buildings between 3 and 30 stories in height with residential uses and ground floor commercial uses.
 - b. The Project is in conformance with Goal LU-3-Downtown in that the project contributes to Downtown as a regional job, entertainment, and cultural destination and promotes downtown as the symbolic heart of San Jose.
 - c. The Project is in conformance with Land Use Policy LU-1.1 in that the project encourages walking by creating safe, attractive, and accessible pedestrian connections between developments and existing sidewalks adjacent to public streets to minimize vehicular miles traveled.
 - d. The Project is in conformance with Land Use Policy LU-3.1 in that the project includes a mix of uses in a compact, intensive form to maximize social interaction.
 - e. The Project is in conformance with Historic Preservation Goal LU-13-Landmarks and Districts in that the project preserves and enhances a historic landmark and contributes to a historic district.
 - f. The Project is in conformance with Historic Preservation Policy LU-13.1 in that the project preserves the integrity and fabric of a designated Historic District.
 - g. The Project is in conformance with Historic Preservation Policy LU-13.7 in that the project and rehabilitation of the church will be compatible with the character of the Historic District and will conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties.
 - h. The Project is in conformance with Historic Preservation Policy LU-13.8 in that the proposed new development and rehabilitation of the church is designed to be sensitive to the character of the Historic District.
6. **Zoning Code Compliance.** The Project is consistent with the regulations of the Zoning Ordinance in the following manner:
 - a. **Parking Requirement.** The Project provides car, motorcycle, and bicycle parking at the appropriate ratios defined in Chapter 20.90 of the Municipal Code. Table 20-140 of the Municipal Code requires one parking space per unit and does not require parking for general retail uses. The proposed project provides 272 parking spaces, and meets the parking requirements of the Zoning Code.
 - b. **Setbacks.** Properties within the Downtown Primary Commercial zoning district are not subject to minimum setback requirements.
 - c. **Height.** Properties within the Downtown Primary Commercial zoning district are not subject to height limits designation by the City, but are subject to the elevation restrictions prescribed under the Federal Aviation Regulations. The proposed project will require FAA clearance prior to the issuance of Building permits.

7. **Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.
- a. An Addendum to the Park View Towers SEIR (Resolution No. 08-015) and Downtown Strategy 2000 (Resolution No. 72767) was granted for this project under the provisions of environment review requirements of Title 21 of the San José Municipal Code implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment. This document is available through the following link:
<http://www.sanjoseca.gov/DocumentCenter/View/41709>
8. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Site Development Permit.
- a. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
 - i. The exterior wall and roof materials of the proposed structures are composed of compatible colors, materials, and textures.
 - ii. The architectural elements of the proposed structures are integrated into a harmonious whole.
 - iii. The massing, scale, and height of the proposed structures are consistent and compatible with each other.
 - b. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
 - i. The proposed buildings are oriented to the street, and provide strong connections to the adjacent properties.
 - ii. The materials, textures, and colors of the proposed buildings are architecturally compatible with the existing buildings within the immediate downtown area.
 - iii. The exterior wall materials of the proposed structures on site are compatible with the materials of existing adjacent or nearby structures.
 - iv. The location of the proposed buildings on the site are compatible with the surrounding buildings.
 - v. The proposed structures do not unreasonably interfere with the light and air available on adjacent sites.
 - c. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.
 - d. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

- i. Construction upon the currently vacant site will contribute to the appearance of the neighborhood.
- ii. Landscaping will be provided on the site and an adequate irrigation system will be provided to support this landscaping.
- iii. Ventilation, plumbing, utility and trash facilities will be screened by parapets, fences, walls or other devices compatible with the architectural treatment of the structure.
- e. Traffic access, pedestrian access and parking are adequate.
 - i. The proposed project meets the requirements of the Municipal Code which specify traffic and pedestrian access and parking requirements.
 - ii. The driveway and on-site circulation provide access to the site without interfering with off-site circulation, including that of the light rail transit system. Pedestrian walkways within the public right-of-way are provided to all exterior building entrances.
 - iii. The proposed number and size of parking spaces complies with the requirements of the Zoning Ordinance.
- f. The project is either consistent with the General Plan or counterbalancing considerations justify the inconsistency.
 - i. The proposed project is consistent with the General Plan designation of Downtown in that the project provides a mix of residential and commercial uses which support a vibrant downtown.

In accordance with the findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire two years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. Furthermore, this Permit shall automatically expire four years from and after the date of issuance hereof by said Director if within such four-year period construction of buildings has not commenced, pursuant to and in accordance with the provisions of this permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Amendment to extend the validity of this Permit for a period of up to two years in

accordance with Title 20. The Permit Amendment must be approved prior to the expiration of this Permit.

3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Conformance to Plans.** The development of the site shall conform to the approved Site Development Permit plans entitled, "Park View Towers" dated February 18, 2015, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
5. **Colors and Materials.** All building colors and materials are to be as specified on the approved plan set. Changes to the colors or materials are subject to approval by the Director of Planning, Building, and Code Enforcement.
6. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
7. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
8. **Green Building Requirements for Mixed Use New Construction Projects.** The development is subject to the City's Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued on or after September 8, 2009 for the construction of buildings approved through the scope of this permit, the applicant shall pay a Green Building Refundable Deposit applicable to the gross square footage of said buildings which are approved through this permit. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
9. **Conformance with Other Permits.** This permit shall only be implemented in conjunction with and in full compliance with all conditions contained in the associated Historic Preservation Permit, file number HP14-002.
10. **Major Permit Adjustment Required.** Prior to issuance of Building Permit, the applicant shall submit a Major Permit Adjustment, billed on a time and material basis for staff time in excess of four and a half hours addressing each of the items below to the satisfaction of the Director of Planning, Building and Code Enforcement to address the following items. The Major Permit Adjustment is an administrative approval process subject to the discretion of the Director of Planning, Building, and Code Enforcement.

- a. **FAA Approval.** All FAA conditions identified in the Determination(s) of No Hazard, if and when issued, shall be incorporated into the Site Development Permit conditions of approval.
 - b. **Lighting Plan.** A lighting plan shall be submitted for lighting features to illuminate all structures and public and private open spaces. Lighting features shall conform to all City and FAA requirements and policies. Photometric measurements shall be provided with the lighting plan.
 - c. **Visual Beacons.** Visual beacons shall be added to the site plan in coordination with VTA to inform vehicles entering and exiting to and from the North 2nd Street driveway that a VTA light rail train is approaching. The Permittee shall coordinate with VTA to ensure the appropriate detection and timing of approaching light rail trains.
11. **Awnings.** If awnings or other decorative elements to the ground floor of tower 2 are desired by the Permittee, a Permit Adjustment shall be submitted to the Director of Planning, Building, and Code Enforcement.
 12. **Construction Methods.** Pile driving will not be a permitted construction method for excavation. Construction of this project shall utilize tie-back in coordination with VTA. Any deviation from this will require the submittal of a structural analysis of the surrounding historic structures demonstrating that pile-driving will not impact the structural stability of the historic buildings, and an amendment to Historic Preservation Permit HP14-002 must be submitted to the Director of Planning, Building, and Code Enforcement. Any pile driving would be subject to notification of residents, and the installation of portable acoustic barriers.
 13. **Church Relocation.** Relocation of the First Church of Christ Scientist shall be per the relocation plan submitted to the City on February 24, 2015 and included with the project materials.
 14. **Construction and Rehabilitation Phasing.** The applicant shall take all reasonable protective actions necessary to ensure that the church structure withstands relocation and construction of the surrounding site. In the event the church is substantially damaged or destroyed, the section damaged shall be repaired immediately or in the event of total failure, the church shall be reconstructed and the structure shall be maintained by the property owner as a amenity space open and available for use by the public.
 15. **Rehabilitation and Construction Phasing.** A structural analysis of the church building shall be conducted (per x.x) prior to the first and second moves of the church. Protective barriers shall be installed at the church prior to any construction on the site (per x.x). Necessary structural improvements and rehabilitation to the church to ensure that the church withstands relocation shall be conducted prior to relocation. Exterior and interior rehabilitation to prevent further deterioration of the church over the period of construction shall be conducted simultaneously with site construction. Exterior rehabilitation shall be completed prior to occupancy of Tower 1 and interior rehabilitation shall be completed prior to occupancy of Tower 1 and Tower 2.
 16. **Cultural Resources Monitoring and Preservation.**
 - a. Prior to the issuance of or grading permits, a California-licensed qualified geologist or geotechnical engineer shall prepare a study of the vibration that will be caused by, excavation and construction activities and its potential impact on adjoining structures. Based on the results of the study, mitigation measures regarding the restriction and monitoring of vibration inducing activities shall be adhered to by the project sponsor. A copy of the study, recommended mitigation measures and monitoring reports shall be

provided to the Environmental Review Division Manager of the City of San Jose Department of Planning, Building and Code Enforcement.

- b. Prior to the issuance of grading permits, a registered structural/civil/geotechnical engineer (engineer), with a minimum of five years of experience in the rehabilitation of historic buildings, shall review excavation and shoring plans prepared for the proposed development. The engineer shall prepare a report of findings, recommendations and any related design modifications necessary to retain the structural integrity of the First Church of Christ Scientist. In addition, the engineer (with geotechnical consultation as necessary) shall determine whether, due to the nature of excavations, soils, method of soil removal, and the existing foundation of the First Church of Christ Scientist, the potential for settlement would require underpinning and/or shoring. If underpinning and/or shoring is determined to be necessary, appropriate designs shall be prepared and reviewed by the engineer and city staff, shall be installed.
- c. Protective barriers are required to protect the exposed walls of the First Church of Christ Scientist from potential damage caused by construction activities. Prior to the issuance of grading permits, a structural engineer with a minimum of five years of experience in the rehabilitation of historic buildings, together with a historical architect with a minimum of five years of experience in the rehabilitation of historic buildings, as well as meeting the Secretary of the Interiors Standards and Guidelines for Archeology and Historic Preservation, Professional Qualifications Standards, shall prepare designs and specifications for protective barriers required to protect the exposed walls of the First Church of Christ Scientist from potential damage caused by construction activities. All documents prepared in accordance with this mitigation measure shall be reviewed and approved by the Chief Building Official and installation of protective barrier shall be in place prior to any construction activity.
- d. Prior to relocation or construction activities, a historical architect and a structural engineer shall undertake An Existing Condition study of the First Church of Christ Scientist. If pile-driving is allowed, the report must also include adjacent structures within close proximity of the subject site (selected structures to be determined by the Director of Planning, Building, and Code Enforcement). The documentation shall take the form of written descriptions and photographs to establish the baseline condition of the buildings prior to construction, including the location and extent of any visible existing cracks chipping, or flaking, especially to the character defining features of these buildings, and shall include those physical characteristics of the resources that convey their historic significance and that justify their inclusion on, or eligibility for inclusion on, the California Register of Historical Resources and local register. The documentation shall be reviewed and approved by the City's Historic Preservation Officer and the Chief Building Official and maintained on file throughout the construction process.
- e. During construction, the historical architect and structural engineer shall monitor the First Church of Christ Scientist and adjacent historic structures, and report any changes to existing conditions, including, but not limited to, expansion of existing cracks, new spalls, or other exterior damage/deterioration. Monitoring reports shall be submitted to the City's assigned staff on a periodic basis to be determined by the City's Historic Preservation Officer and the Chief Building Official.
- f. If, in the opinion of the structural engineer and historical architect, substantial adverse impacts to historic resources related to construction and demolition activities are found during construction, the monitoring team shall so inform the project sponsor, or sponsor's designated representative responsible for construction activities, as well as the City's

Historic Preservation Officer and the Chief Building Official. The project sponsor and the City shall consider the structural engineer and historical architect's findings and recommendations and mutually agree on corrective measures, which shall be carried out by the project sponsor.

- g. Prior to construction, the historical architect shall establish a training program for construction workers involved in the project that communicates the importance of protecting historic fabric and materials, and directions on how to exercise care when working around and operating equipment near the historic structures, including storage of materials away from historic buildings. It shall also include information on means to reduce vibrations from construction, and monitoring and reporting any potential problems that could affect the historic resources in the area. The project sponsor shall be responsible for implementation of the training program. The training program shall be reviewed and approved by the City's Historic Preservation Officer.
- h. Prior to the issuance of grading permits, a soil management plan (SMP) and a health safety plan (HSP) shall be prepared by a qualified hazardous materials consultant. The SMP will include a soil handling plan which segregates the lead contaminated fill material from the underlying native soil, post-excavation soil sampling to confirm the removal of the lead contaminated fill material, and maintenance requirements to ensure that the long-term soil management measures, specifically capping the soils, will remain effective during use of the site and during the occupancy period. The HSP will outline proper soil handling procedures and health and safety requirements to minimize worker and public exposure to hazardous materials during construction. The SMP and HSP shall be prepared and submitted to the Environmental Review Division Manager of the Planning Division and the Environmental Services Department Municipal Compliance Officer for review and approval prior to the issuance of grading permits.

17. Shoring:

- a. Shoring plans will be required for review and approval as part of the Grading Permit for this project.
- b. If tie backs are proposed as a part of the shoring operation, a separate Revocable Encroachment Permit must be obtained by the Permittee or designee and must provide security, in the form of a CD or Letter of Credit, in the amount of \$100,000 must be provided.

18. Refuse. All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.

19. Outdoor Storage. No outdoor storage is allowed or permitted unless designated on the approved plan set.

20. Utilities. All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.

21. Recycling. Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.

22. Street Number Visibility. Street numbers of the buildings shall be easily visible from the street at all times, day and night.

23. Anti-Graffiti. The applicant shall remove all graffiti from buildings and wall surfaces within

48 hours of defacement, including job sites for projects under construction.

24. **Anti-Litter.** The site and surrounding area (public sidewalks, gutters, and light rail track immediately adjacent to the property) shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
25. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
26. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium fixtures unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
27. **Perimeter Fencing.** Fence height and materials shall be provided as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
28. **Motorcycle Parking.** This project shall conform to the motorcycle parking requirements identified in the Zoning Ordinance, as amended. The required spaces shall be provided through a combination of dedicated spaces as shown on the plans and the use of surplus vehicular parking spaces which may serve as motorcycle parking spaces.
29. **Bicycle Parking Provisions.** This project shall provide a combination of short term uncovered bike parking as well as long term covered parking consistent with the requirements noted in the Zoning Ordinance.
30. **Generators.** The proposed generator shall be operated in conformance with the regulations of Title 20 of the Municipal Code.
31. **Hazardous Materials Storage.** This permit does not include any approval of facilities or areas on, within, or under the site to be used for the storage of hazardous, toxic, flammable, or combustible materials, and such facilities or areas are subject to review under a separate permit.
32. **Asbestos.** In accordance with State law, an asbestos survey shall be completed prior to the demolition (specifically the demolition of the church basement) or renovation of any structures on the site. If any asbestos building materials are present, an asbestos abatement program will be implemented, including the removal and disposal of the materials at a permitted facility.
33. **Alcohol Sales.** This Permit does not include any approval for off-sale alcohol.
34. **Noise.** Sounds shall be contained within the buildings and the buildings shall be adequately insulated to prevent excessive sound from emanating outside. Adequate HVAC (air conditioning) shall be provided to allow all doors and windows on the subject site to remain closed during the operation and activities of the site. Maximum noise levels emanating from the interior any of the facilities shall not exceed 55 decibels at the adjacent property line.

35. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
36. **Swimming Pool.** Swimming pool water discharge must conform to the City's Policy for Pool and Water Discharge. Operation and maintenance of the swimming pool area must conform to the guidelines outlined in the Swimming Pool Best Management Practices (BMPs).
37. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
38. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
39. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
40. **FAA Clearance Required.** Prior to issuance of a building permit, the Permittee shall obtain from the Federal Aviation Administration a "Determination of No Hazard" for each building high point. The Permittee shall file a "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) for the building corners and any additional higher points of the building. The data on the FAA forms should be prepared by a licensed civil engineer or surveyor using NAD83 location coordinates out to the hundredths of seconds and NAVD88 elevations rounded off the next highest foot.
41. **FAA Clearance Required.** Prior to issuance of a building permits, the following actions shall be accomplished:
 - a. The applicant shall comply with the notification requirements of the FAR Part 77 and receive a "Determination of No Hazard" from the FAA.
 - b. Conditions set forth in the required FAA determination of no hazard regarding roof-top lighting or marking shall be incorporated into the final design of the project.
42. **FAA Clearance Permit Adjustment.** Prior to issuance of a building permit, the Permittee shall obtain a Permit Adjustment to incorporate all FAA conditions identified in the Determination(s) of No Hazard, if and when issued, e.g., installation of prescribed roof-top obstruction lighting or subsequent construction-related notifications, into the Site Development Permit conditions of approval.
43. **FAA Notice of Actual Construction or Alternation.** The permittee shall file FAA Form 7460-2 (Part 2), Notice of Actual Construction or Alteration within five (5) days after the construction reaches its greatest height.
44. **Avigation Easement.** City holds a recorded Avigation Easement over the subject property (granted in 1986 in association with a previous project) that restricts maximum height to approx. 190-195 feet above ground. Prior to the issuance of building permits, the permittee shall apply for a new Avigation Easement to the City that allows for a 230-ft. maximum

height, subject to prerequisite issuance of FAA no-hazard determinations. This condition of permit approval must be fulfilled prior to building permit issuance for a structure higher than 190-195 feet. Contact Cary Greene, Airport Planner, at 408-392-3623 or cgreene@sjc.org to initiate the new easement dedication process.

45. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, H14-009 and HP14-002 shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The project applicant shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial).
46. **Fire Flow Information.** The Permittee shall provide water flow information from the San Jose Water Company prior to the issuance of Building permits. The required fire flow for the site is 3,000 GPM from three fire hydrants.
47. **Locations of fire hydrants.** The average distance between hydrants shall not exceed 350 feet. The maximum distance from any point on street frontage to a hydrant shall be 210 feet. Any exterior portion of all buildings shall be within 400 feet of a hydrant.
48. **Water Service Main Supply.** Sheet C-3.1 shows 1 – 8” fire service line from St. James Street. High rise building shall be supplied with 2 water service mains from two different streets. A 2nd fire service line shall be provided for the high-rise portion. An additional fire service line shall also be provided for the building with 6 townhomes.
49. **Aerial Fire Apparatus.** Where building height exceeds 30 feet, approved aerial fire apparatus access roads shall be provided to handle the safe operation of the larger aerial equipment for fire fighting. The width of aerial fire apparatus access roads shall have a minimum unobstructed width of 26 feet, exclusive of shoulders, in the immediate vicinity of the building or portion thereof. At least one of the required access routes meeting the above condition shall be located within a minimum of 15 feet and a maximum of 30 feet from the building, and shall be positioned parallel to one entire side of the building. The side of the building on which the aerial fire apparatus access road is positioned shall be approved by the fire code official. Any obstructions shall be permitted to be placed with the approval of the fire code official. Overhead utility and power lines shall not be located over the aerial fire apparatus access road.

50. **Emergency Vehicle Access.** Emergency vehicle access from the 2nd Street into the property shall also be design as fire apparatus access road. Width, length, and grade of the fire apparatus access roads, streets, avenues, and the like. Every portion of all building exterior walls shall be within 150 feet of an access road. The fire access shall:
- a. have an approved all weather surface;
 - b. be at least 20 feet wide;
 - c. have a minimum 13 feet 6 inch vertical clearance;
 - d. **be designed and maintained to support the loads of fire apparatus of at least 75,000 pounds;**
 - e. have a minimum inside turning radius of 30 feet and an outside turning radius of 50 feet;
 - f. be designed with approved provisions for turning around of fire apparatus if it dead ends and is in excess of 150 feet; and
 - g. have a maximum grade of 15%.
 - h. A second point of access is required when a fire apparatus road exceeds 1,000 feet.
 - i. Curbs are required to be painted red and marked as “Fire Lane - No Parking” under the following conditions: (show exact locations on plan)
 - i. Roads, streets, avenues, and the like that are 20 to less than 26 feet wide measured from face-of-curb to face-of-curb shall have curbs on both sides of the road painted and marked
 - ii. Roads, streets, avenues, and the like that are 26 to less than 32 feet wide measured from face-of-curb to face-of-curb shall have one curb painted and marked
51. **Fire Department Connections.** All fire department connections shall be located within 100 feet from a standard public fire hydrant. All alternate means of protections shall be reviewed by the Fire Department. The public fire hydrant(s) shall be located on the same frontage as all fire service connections.
52. **Fire Sprinkler System.** Building(s) shall be provided with an automatic fire extinguishing system in accordance with CFC 903.2 and SJFC 17.12.630. Systems serving more than 20 heads shall be supervised by an approved central, proprietary, or remote service to the satisfaction of the Fire Chief.
53. **Fire Pump and Fire Control Rooms.** Location and access to the fire pump and fire control rooms shall be pre-planned with the fire department. In accordance with CFC 509.2; Approved access shall be provided and maintained for all fire protection equipment to permit immediate safe operation and maintenance of such equipment. Each building shall be equipped with its own separate fire pump and fire control rooms.
54. **Fire Pumps.** Required fire pumps shall be supplied by connections to a minimum of two water mains located in different streets. Separate supply piping shall be provided between each connection to the water main and the pumps. Secondary water supplies shall be provided for both buildings in accordance with CFC 903.3.5.2.
55. **Fire Alarm System.** The Permittee shall provide buildings with an automatic fire alarm system as required by CFC 907.2 and 907.3.

56. **Standpipes Available During Construction.** All buildings under construction, three or more stories in height, shall have at least one standpipe for use during construction. Such standpipe shall be provided with fire department hose connections. Location(s) and numbers of standpipe(s) shall be reviewed and approved by the Fire Department.
57. **Air Breathing Replenishment.** Per City of San Jose ordinance No. 29509, effective 11/19/2014, air breathing replenishment system is required for Tower 1 and Tower 2.
58. **Public Safety Radio Coverage.** Public Safety Radio Coverage is to be provided throughout the area of each floor of the building. Communication repeaters may be required to be installed in the buildings.
59. **Communication System.** Two way communication system is required.
60. **Fire Fighter Elevator.** Fire fighter elevator shall meet requirements of the CBC/ Chapter 30.
61. **Access Control.** When access control devices including bars, grates, gates, electric and/or magnetic locks, or similar devices which would inhibit rapid fire department emergency access to the building are installed, such devices shall be approved by the Chief. All access control devices shall be provided with an approved means for deactivation or unlocking by the Fire Department. Access control devices shall also comply with CFC/CBC Chapter 10 for exiting.
62. **Security Gate Access.** All access control vehicle security gate(s) shall be a minimum of 20 feet clear width and may have a clear width of 14 feet for each direction of travel when split by median. Gates shall be recessed beyond the turning radius required by the San Jose Fire Department and without obstruction of any median island dividers. All gate installing shall be reviewed and approved prior to construction. Electric gate operators must have UL 325 listing and it gate must comply with ASTM F2200.
63. **Lock Boxes.** The project development shall provide lock boxes to the satisfaction of the Chief Building Official and Fire Chief.
64. **HazMat Review.** The applicant must contact the Hazardous Materials Division at (408) 535-7750 prior to the issuance of grading permits or within 60 days of issuance to initiate the process to determine if the type and quantity of hazardous material is acceptable per code and whether a Hazardous Materials Plan Review is required.
65. **Smoke Control Systems.** San Jose Fire Department does not provide testing and inspection of Smoke Control systems. System must be tested and approved by a qualified 3rd party contractor.
66. **Emergency Power System.** Emergency power system shall be pre-planned with the fire department.
67. **Adherence to the Parkland Dedication and Park Impact Ordinances.** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code), as referenced above, for the dedication of land and/or payment of fees in-lieu, under the formulas contained within in those chapters and the associated resolutions. The project developer will be required to pay in-lieu parkland fees on this project.

68. **Inclusionary Housing.** Based on the current project description, the project may subject to the City's Inclusionary Housing Policy or newly adopted Affordable Housing Impact Fee. Prior to the issuance of a Foundation or Building Permit, developer will be required to submit a Compliance Plan to the City's Housing Department that identifies the way in which the projects' affordable housing obligation will be met. Once the Housing Department has approved the Compliance Plan, the developer will be required to enter into and record an Affordability Restriction on the land that codifies the obligation. A Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any Inclusionary Unit will not be issued until all requirements of the Inclusionary Housing Policy (or Ordinance) has been met. For more information on the City's Inclusionary Housing Policy/Affordable Housing Impact Fee programs, please contact the Inclusionary Housing Team of the City's Housing Department at (408) 975-2647, (408) 535-8236, or (408) 535-3860.
69. **Geotechnical Investigation.** A geotechnical investigation must be prepared by a California-licensed geo-technical engineer completed to a degree of specificity that the City Geologist can determine that all appropriate measures are proposed to avoid impacts to nearby historic structures, including but not limited to the First Church of Christ Scientist and the National Guard Armory buildings. Evaluation of the St. James Hotel/Moir Building and other nearby structures may also be necessary. This shall be completed prior to the issuance of any building or grading permit for work covered in this or associated permit. The project sponsor and its contractors will follow the recommendations of the final geotechnical report(s) regarding any excavation and construction for the project. The project sponsor will ensure that the construction contractor conducts a pre-construction survey of existing conditions and monitors the adjacent buildings for damage during construction, if recommended by the geotechnical engineer.
70. **Dewatering During or After Construction.** If dewatering is necessary during or after construction, the final soils report will address the potential settlement and subsidence impacts of this dewatering. Based on this discussion, the soils report would determine whether or not a lateral movement and settlement survey should be done to monitor any movement or settlement of surrounding buildings and adjacent streets. If a monitoring survey is recommended, such monitoring will follow City of San José procedures. Instruments would be used to monitor potential settlement and subsidence. If unacceptable movement were to occur during construction, groundwater recharge would be used to halt this settlement. The project sponsor would delay construction if necessary. Costs for the survey and any necessary repairs to service lines under the street would be born by the project sponsor.
71. **Resettlement Due to Dewatering.** If dewatering is necessary, the project sponsor and its contractor would follow the geotechnical engineers' recommendations regarding dewatering to avoid settlement of adjacent streets, utilities, and buildings that potentially occur as a result of dewatering. The project sponsor and its contractor will follow the geotechnical engineers' recommendations regarding installation of settlement markers around the perimeter of shoring to monitor any ground movements outside of the shoring itself. Shoring systems would be modified as necessary in the event that substantial movements are detected.
72. **Construction Impact Mitigation Measures.** The Permittee is responsible for notifying all contractors of the conditions of this permit and that they shall perform construction activities in compliance with these conditions, or be subject to enforcement action. The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical conditions to minimize noise created by faulty or poorly maintained engine, drive-train and other components. Notwithstanding

any conditions from the required environmental mitigation measures, the project developer shall ensure that the following construction impact mitigation measures are implemented throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, their contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City:

- a. *Plans.* The construction hours shall be printed on all project plans used for construction.
- b. *Mitigation Measure Disclosure.* These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors. In addition, the project developer is responsible to ensure the all construction impact mitigation measures are implemented.
- c. *Telephone Contact.* A phone with answering machine for non-work hours shall be maintained during the duration of project construction. The phone number should be a local call for surrounding residents, businesses, or hotel guests.
- d. *Compliance.* The applicant shall ensure that the following construction impact mitigation measures are fully complied with throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, their contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City. These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
- e. *Construction Hours.* Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Interior construction that is not audible at the adjacent property lines is permitted on Saturday and Sunday between 9:00 am and 6:00 pm. Accommodations for necessary extended construction activities such as matt slab pours, crane erection, and power connections may be allowed on a case-by-case basis with a required 5-day advance approval by the Director of Planning, Building and Code Enforcement.
- f. *Signage.* The name and phone number of the disturbance coordinator, the hours of construction limitations, City File Number H14-009, city contact and phone number (department and phone number), and shall be displayed on a weatherproof sign posted at each entrance to the project site.
- g. *Enforcement.* The Director of Planning, Building and Code Enforcement may order an immediate halt to construction activities on the project site any time that the Director determines that the project is not in substantial conformance with the requirements of this Permit. Within seven days of ordering such a halt to construction, the Director of Planning, Building and Code Enforcement shall issue a Notice of Noncompliance in conformance with Section 20.100.320 of Title 20 of the San José Municipal Code indicating the specific area(s) of noncompliance and providing notice that the Director may issue an Order to Show Cause why the development permit shall not be revoked, suspended, or modified if the noncompliance is not corrected.

- h. *Dust Control.* On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.

73. Environmental Mitigation from the Downtown Strategy 2000 and the Mixed-Use Project and Century Center Plan Amendment EIR. The Permittee shall implement the following environmental mitigation measures from the San Jose Downtown Strategy 2000 FEIR and the Mixed-Use Project and Century Center Plan Amendment EIR for the proposal to the satisfaction of the Director of Planning, Building, and Code Enforcement.

- a. The applicant shall comply with all FAA conditions and approvals, including but not limited to the specific FAA criteria specified above.
- b. Prior to the issuance of building permits for development, the property owner(s) shall grant an aviation easement to the City of San, providing for acceptance of aircraft noise impacts.
- c. Should evidence of environmental concern (i.e. underground storage tanks, stained soils, fuel product lines, etc.) be discovered during subsurface construction, construction shall cease within 100 feet of the affected area, the appropriate regulatory agencies shall be contacted, and a qualified environmental consultant shall be retained.
- d. Archeological mitigation measures shall be implemented in accordance with the below noted conditions.
- e. Undertake development in the vicinity of a historical resource in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- f. Undertake streetscape improvements in the vicinity of a historical resource in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- g. Appropriate building design, building construction, and noise attenuation techniques in the new residential development shall be utilized to achieve an interior noise level of 45 dBA Ldn. Design features that may be required could include the following: use of sound-rated windows and exterior doors, air-conditioning or mechanical ventilation so that windows and door may remain closed, etc.
- h. Implementation of the following multi-part measure would reduce potential construction period noise impacts to less-than-significant levels:
 - i. Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential or hotel use. Interior work that does not result in any audible noise from outside the structure is permitted on Saturday between the hours of 8:00 a.m. and 7:00 p.m. Exceptions to the construction hours may be administratively approved on a case by case basis subject to mailed notification to the surrounding neighborhood to the satisfaction of the Director of Planning, Building, and Code Enforcement. Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the opening of the gates to prevent the disruption of nearby residents.
 - ii. All internal combustion engines for construction equipment used on the site shall be properly muffled and maintained.

- iii. In the event that pile driving is proposed, nearby residents shall be notified of the schedule for its use while it is in use. Portable acoustical barriers shall be installed around pile driving equipment.
- iv. A name, address, and phone number of a contact person shall be posted on the site to handle noise complaints.
- v. Unnecessary idling of internal combustion engines is prohibited. Vehicle and equipment engines shall be properly maintained.
- vi. All stationary noise generating construction equipment, such as air compressors and portable power generators, shall be located as far as practical from existing residences.
- vii. The contractor would be required to use noise barriers or noise control blankets to shield stationary equipment from nearby noise-sensitive receptors.
- i. The following measures shall be implemented during construction of the subject project:
 - i. The Basic and Enhanced control measures recommended by the BAAQMD and listed in Table IV.C-4 shall be implemented during construction.
 - ii. Water all active construction areas at least twice daily.
 - iii. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - iv. Pave, apply water three times daily, or apply (nontoxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
 - v. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.
 - vi. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
 - vii. Water sprays shall be utilized to control dust when material is being added or removed from soils stockpiles. If a soils stockpile is undisturbed for more than one week, it shall be treated with a dust suppressant or crusting agent to eliminate wind-blown dust generation.
- j. All neighboring properties located within 500 feet of property lines of a construction site shall be provided with the name and phone number of a designated construction dust control coordinator who will respond to complaints within 24 hours by suspending dust producing activities or providing additional personnel or equipment for dust control as deemed necessary. The phone number of the BAAQMD pollution complaints contact shall also be provided. The dust control coordinator shall be on-call during construction hours. The coordinator shall keep a log of complaints received and remedial actions taken in response. This log shall be made available to City staff upon its request.
- k. Geotechnical investigations shall be submitted to ensure that the proposed development fully complies with the Building Code, including measures to ensure that potential damage related to seismic shaking, expansive soils, and non-uniformly compacted fill are minimized. Furthermore, geotechnical investigations are required to address the dewatering needed to construct the project. This is discussed further in the following condition titled "Environmental Mitigation from the Park View Towers FSEIR."

1. The applicant of a development or redevelopment project shall prepare a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction and life of the project. The SWPPP would act as the overall program document designed to provide measures to mitigate potential water quality impacts associated with implementation of the project. The SWPPP shall include:

- i. Specific and detailed BMPs designed to mitigate construction-related pollutants. These controls shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. An important component of the storm water quality protection effort will be the education of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of storm water quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP.

The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and must include both dry and wet weather inspections. City of San Jose and RWQCB personnel may make unannounced site inspections and are empowered to levy considerable fines if it is determined that the SWPPP has not been properly prepared and implemented.

Best Management Practices (BMPs) designed to reduce erosion of exposed soil may include, but are not limited to: soil stabilization controls, watering for dust control, perimeter silt fences, placement of straw wattles, and sediment basins. The potential for erosion is generally increased when grading occurs during the rainy season, as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control, that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Access to and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash down facilities shall be designed to be accessible and functional both during dry and wet conditions.

- ii. Measures designed to mitigate post construction-related pollutants. The project shall include measures designed to mitigate potential water quality degradation of runoff from all portions of the completed development, including roof and sidewalk runoff. Design teams for new projects should review Start at the Source, Design Guidance Manual for Stormwater Quality Protection.
- iii. The selected permanent stormwater treatment measures may include biofilters and grassy swales; and the selected measure must meet the hydraulic sizing criteria specified in the most current NPDES municipal stormwater permit issued to the City of San Jose, unless the developer demonstrates that it is impracticable to meet the criteria; and the project includes an alternative method for treating an equivalent pollutant loading or quantity of stormwater runoff, or provides another equivalent water quality benefit.
- m. Each landscaping plan proposed as part of future development in the project area shall be designed to use the minimum volume of irrigation water necessary to meet the objectives of the landscaping plan. In general, low water-need plants shall be emphasized. In particular, species of trees and shrubs that only require water to become

established shall be specified whenever possible. Turf grass, which is among the highest water users of all common landscaping choices, shall be avoided to the extent feasible. In addition, efficient irrigation systems, including but not limited to drip systems, shall be emphasized. Use of reclaimed water should be considered for each project. The City of San Jose Planning Department shall review and approve each of the landscaping plans proposed as part of specific development projects to ensure that they minimize irrigation to the extent feasible.

- n. Each future project proposed under Strategy 2000 requiring discharge of dewatering effluent shall prepare a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall include provisions for the proper management of dewatering effluent. At a minimum, all dewatering effluent will be contained prior to discharge to allow the sediment to settle out, and filtered, if necessary, to ensure that only clear water is discharged to the storm or sanitary sewer system. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater will be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the applicant will work with the RWQCB and/or the local wastewater treatment plant to determine appropriate disposal options.
- o. All dewatering effluent shall be contained prior to discharge to allow the sediment to settle out. Water shall be filtered, if necessary, to ensure that only clear water is discharged to the sanitary or storm system. Prior to discharge to the City's sanitary or storm system, the treatment or filtration methods shall meet City of San Jose standards. Comply with additional criteria from the Park View Towers FSEIR and with all other applicable permits and regulations regarding dewatering.
- p. Irrigation shall be designed to use the minimum amount of water necessary, and low water-need plans shall be utilized.
- q. Comply with current regulations related to work with lead based paint. A pre-demolition survey shall be performed, and if lead based paint is identified, then federal and state construction worker health and safety regulations shall be followed.
- r. Comply with current regulations regarding demolition of buildings containing asbestos. A pre-demolition survey shall be performed, and if asbestos is present, the materials shall be abated by a certified asbestos abatement contractor in accordance with BAAQMD requirements.

74. Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2246>.

- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

75. Grading/Geology:

- a. A grading permit is required prior to the issuance of a Public Works Clearance.

- b. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
 - c. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - d. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - e. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
76. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
- a. Action item #1 needs be addressed prior to issuance of a Public Works Final Memo.
 - b. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - c. Media Filter Unit(s) located within Building footprints must conform to Building Division Directive P-005 located at the following:
<http://www.sanjoseca.gov/documentcenter/view/38835>
77. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
78. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
79. **Assessments:** This project is located within the Basic Zone of the Downtown San Jose Property-Based Business Improvement District, which provides enhanced cleaning, information and safety services, beautification activities, and business retention and growth

programs within the boundaries of the district. Benefitting properties within the district pay for the services through annual assessments placed on the County property tax bills, which may be increased by up to 5% each year. The 2014-15 assessment is calculated based on the land use and its building and lot square footages. Commercial properties pay \$0.060313276 and residential properties pay \$0.040711232 per building and lot square footages. Future year assessments will continue to be collected through the County property tax bills listed under Tax Code 916 "SJ DOWNTOWN PBID"

80. Street Improvements:

- a. Per the Downtown Streetscape Master Plan, construct 12' wide sidewalks along St. James Street. Street dedication would be required.
- b. Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
- c. Close unused driveway cut(s).
- d. Proposed driveway width to be 26'.
- e. Combine the separated left and right turn lanes on Devine Street into a shared lane as well as extending the metered parking on Devine Street up to the stop sign.
- f. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- g. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- h. Install gates with warning devices within VTA right-of-way on North 2nd Street to regulate the entry of vehicles in the light rail tracks. See condition item #17.

81. Revocable Encroachment Permit (Street/Sidewalk Closures): At the Implementation stage, the Permittee shall apply for a Revocable Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.

- a. The following should be included with the Revocable Permit application, but are not limited to:
 - i. **Letter of Intent:** This document should provide a detailed description of the reasons for the sidewalk/lane closures and why they are absolutely necessary (man lifts, baker tanks, staging area, concrete pumping activities, etc.) and reasons why covered pedestrian walkways will not be provided (ex. swinging loads over sidewalk not safe for pedestrians).
 - ii. **Multi-Phased Site Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.

- b. Developer shall minimize the potential impact to vehicular and pedestrian traffic by:
 - i. Implementing the closures at the time the onsite activities dictate the need for the closure.
 - ii. Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlines in condition 10.a.ii above.
 - c. If proposed lane and parking closures are a part of the Revocable Permit Application, Developer shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at:
<http://www.sanjoseca.gov/index.aspx?NID=3713>. Developer shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.
82. **Greater Downtown Area Master Plans:** This project is located within the Greater Downtown area. Public improvements shall conform to the Council approved San Jose Downtown Streetscape and Street and Pedestrian Lighting Master Plans.
83. **Electrical:**
- a. Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
 - b. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
 - c. Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 10' in commercial areas and 5' in residential areas.
84. **VTA & CPUC Coordination:** Because of the project's proximity to the light rail tracks, VTA and CPUC access / encroachment permits will be required. Coordinate with VTA and CPUC to determine the specific permits that will be needed.
85. **Referrals:** This project should be referred to the Valley Transportation Authority (VTA).
86. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
87. **Commercial Signs:** A separate Revocable Encroachment Permit must be applied for, for any proposed signs associated with the retail component of this project. Any proposed signs projecting into the public right-of-way cannot project more than four feet six inches (4'-6") from the surface of which it is attached and must be located at least eight feet (8') above grade.
88. **Sidewalk Cafes:** A separate Planning Permit will be required for any future proposed sidewalk cafes.

- 89. Post-Construction Stormwater Runoff Treatment Measures - Maintenance and Records.** All post-construction treatment measures must be installed as specified on approved construction plans. Treatment measures shall not be altered or removed, and must be operated and maintained by qualified personnel consistent with approved development plans and/or supplemental operation and maintenance plans. Property owner must ensure that treatment measures continue to operate effectively for the life of the project. Property owners and/or property managers designated by the owner must keep a maintenance schedule and record of all treatment measures maintenance activities. Copies of maintenance schedules and records will be retained and made available for inspection upon request by the City. When used, all proprietary treatment measures must be operated and maintained per the manufacturers' specifications. The City may require additional maintenance beyond the manufacturers' specifications, if needed.
- 90. Stormwater Management – Construction Activities.** The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the *CASQA Stormwater BMP Construction Handbook Portal* (July 2012). Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, 200 East Santa Clara Street, San José, California 95113. The Erosion Control Plan may include BMPs as specified in the *CASQA Stormwater BMP Construction Handbook Portal* (July 2012) for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 277-5161.
- 91. Stormwater Stenciling.** All storm drain inlets and catch basins shall be labeled with the "NO DUMPING - FLOWS TO NEIGHBORHOOD CREEK" stencil. The "No Dumping" message should be applied to both the top of the curb and the face of the curb next to the storm drain inlet, preferably on the left side. If this is not feasible, place the message in the street in front of the inlet. The stencils may be obtained, at no charge, through the Environmental Service Department. Contact Suzanne Thomas at (408) 945-3000.
- 92. Post-Construction Stormwater Runoff Pollution Control Measures – Construction Inspection.** The project shall notify the Public Works Department Inspector prior to the installation of all stormwater treatment control measures and/or hydromodification control (HM) facilities associated with the project. The project's Public Works Department Inspector must verify the proper installation of all stormwater treatment control measures and HM facilities prior to issuance of a Public Works Clearance.
- 93. Construction Noise.** The following mitigation measures shall be implemented for construction activities wherever there is a direct view from existing residences adjacent to the site, or where construction occurs within 500 feet of a residential area.
- a. *Construction Noise.*
 - i. New contractors shall be required to use technology power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used at the project site, as well as at off-site locations with project construction, shall be equipped with adequate muffling devices. All equipment shall be in good mechanical condition, to minimize noise created by faulty or poorly maintained engine, drive-train and other components.

- ii. The contractor shall schedule on-site and off-site construction activities in shifts to avoid high noise levels caused by simultaneously operating several pieces of noise-generating equipment.
 - iii. Temporary berms or noise barriers, such as lumber, or other material stockpiles shall be installed during construction activities.
 - iv. The following equipment shall be used during construction
 - 1) Earth Removal: Use scrapers as much as possible for earth removal, rather than the noisier loaders and hauling trucks.
 - 2) Backfilling: Use a backhoe for backfilling, as it is less costly and quieter than either noisier bulldozers or loaders.
 - 3) Ground Preparation: Use a motor grader rather than a bulldozer for final grading.
 - 4) Building Construction: Power saws should be shielded or enclosed where practical to decrease noise emissions. Nail guns should be used where possible, as they are less noisy than manual hammering.
 - b. *Blasting Noise.* Blasting activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m. on Monday through Friday. Sufficient advance notification to the City of San José Director of Planning and Building and Director of Public Works and to residents in the area prior to initiating blasting activities shall be provided.
 - c. *Exterior Noise.* In order to reduce the exterior noise impact to residences the project includes the mitigation measures below.
 - i. To achieve an acoustically-effective barrier, fences, where specifically required for purposes of noise control, must be constructed air-tight (i.e., without cracks, gaps, or other openings), and must provide for long-term durability. The barrier can be constructed of masonry, wood, concrete, stucco, earth berm, or a combination thereof, and must have a minimum surface weight of 2.5 pounds per square foot (lbs./sf). If wood fencing is used, homogeneous sheet materials are preferable to conventional wood fencing, as the latter has a tendency to warp and form openings with age. However, high-quality air-tight tongue-and-groove, board and batten or shiplap construction can be used. All connections with posts or pilasters must be sealed air-tight. No openings are permitted between the upper barrier components and the ground.
94. **Air Quality.** During construction, the following measures shall be incorporated to mitigate any possible significant air quality impacts.
- a. Water all active construction areas at least twice daily.
 - b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 - d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging
 - e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.

95. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code. The Code addresses the use of reclaimed water including the requirement that an irrigation system be designed to allow for the current and future use of reclaimed water for all landscaped cumulative areas in excess of ten thousand (10,000) square feet. The applicant shall provide necessary infrastructure improvements to facilitate the exclusive use of reclaimed water for dust control, construction activities and irrigation of landscaped areas (except for private yard areas of individual units).
96. **Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Director, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
- A violation of any conditions of the Site Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - The use as presently conducted creates a nuisance.

APPROVED and issued on this 13th day of May, 2015.

Harry Freitas, Director
Planning, Building, and Code Enforcement

Deputy